

HOUSE BILL 1397
By McCord

AN ACT to authorize the "Blount County Adequate Facilities Tax."

WHEREAS, Blount County, Tennessee, has been growing at an accelerated rate over the past several years, having been impacted by the location of new industry in the county and by rapid growth in the standard metropolitan area of Knoxville, Tennessee; and

WHEREAS, projected nonresidential development, the availability of jobs and residential expansion are anticipated to stimulate a significant demand for new dwelling units in the county; and

WHEREAS, projected growth and land use development will cause an increased demand for county-provided public facilities and services; and

WHEREAS, Blount County is committed, for the benefit of both present and future residents, to maintaining a level of public facilities and services commensurate with those presently provided; and

WHEREAS, the Blount County's present population, employment base, tax base, and budget cannot alone support the additional revenues needed to supply facilities and services to serve new growth without a substantial increase in the property tax rate on existing development; and

WHEREAS, due to these circumstances, it is necessary and appropriate that Blount County be given authorization to extend its taxing power to enable the county to impose a fair and reasonable share of the cost of public facilities necessitated by new development on that development so as not to create an unfair and inequitable burden on existing county residents and taxpayers; and

WHEREAS, the most logical and effective mechanism to accomplish the intended result would be to authorize Blount County to levy a privilege tax on new residential and non-residential development in the county outside of the incorporated areas of the cities of Maryville and Alcoa; now, therefore

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Blount County Adequate Facilities Tax."

SECTION 2. As used in this act, unless a different meaning appears from the context:

(1) "Blount County adequate facilities tax board of appeals" means the board established in Blount County to hear appeals regarding the taxes assessed under this act.

(2) "Building" means any structure, including any addition to an existing structure, constructed for residential or nonresidential support, shelter, or enclosure of persons, chattels, or movable property of any kind; the term includes a mobile home but excludes those building's specified in section 6.

(3) "Capital projects" means new and expanded county public facilities and services; any public facility or service requiring the expenditure of public funds, over and above annual local operating expense, for the purchase, construction, or replacement of the physical assets of the county are included.

(4) "Capital improvements program" means a proposed schedule of future capital projects, listed in order of construction priority, together with cost estimates and the anticipated means of financing each project.

(5) "Certificate of occupancy" means a license for occupancy of a building or structure issued in Blount County outside the incorporated areas of the cities of Maryville and Alcoa.

(6) "Development" means the construction, building, reconstruction, erection, extension, betterment, or improvement of land providing a building or structure or the addition to an existing building or structure, or any part thereof, which provides, adds to, or increases the floor area of a residential or nonresidential use.

(7) "Dwelling unit" means a room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, rental or lease on a daily, weekly, monthly, or longer basis; physically separated from any other rooms or dwelling units which may be in the same structure; and containing independent cooking and sleeping facilities.

(8)

(A) "Floor area" for residential development means the total of the gross horizontal area of all floors, including basements, cellars, or attics, which is heated or air conditioned living space, or designed to be finished into heated or air conditioned living space at a future date.

(B) "Floor area" for nonresidential development means the total of the gross horizontal area of all floors, including usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings or portions thereof, or within lines drawn parallel to and two feet (2') within the roof line of any building or portions thereof without walls, but excluding arcades, porticoes, and similar open areas which are accessible to the general public, and which are not designed or used as sales, display, storage, service, or production areas.

(9) "New" means new to Blount County.

(10) "Nonresidential" means the development of any property for any use other than residential use, except as may be exempted by this act.

(11) "Person" means any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit, and includes the plural as well as the singular number.

(12) "Place of worship" means that portion of a building, owned by a religious institution which has tax-exempt status, which is used for worship services and related functions; provided, however, a place of worship does not include buildings or portions of buildings which are used for purposes other than for worship and related functions or

which are or are intended to be leased, rented, or used by persons who do not have tax-exempt status or which are intended or used as a dwelling unit for any person.

(13) "Public building" means a building owned by the state or any agency thereof; a political subdivision of the state, including but not necessarily limited to counties, cities, school districts, utility districts, and special districts; or the federal government or any agency thereof.

(14) "Residential" means the development of any property for a dwelling unit.

SECTION 3. It is the intent and purpose of this act to authorize Blount County to levy and collect a privilege tax on new development in the county outside the incorporated areas of the cities of Maryville and Alcoa so as to ensure and require that the persons responsible for new development share in the burden of growth by paying their fair share of the cost of new expanded public facilities and services ("capital projects") made necessary by such development.

SECTION 4. Engaging in the act of development within Blount County outside of the incorporated areas of Maryville and Alcoa is a privilege upon which Blount County may, by resolution of its legislative body, levy a tax in an amount not to exceed the rates set forth in Section 7.

SECTION 5. The county's legislative body shall levy the tax by resolution after adopting a capital improvements program indicating the need for capital projects anticipated to be funded, in part, by the tax and after finding that the need for such capital projects is reasonably related to development in the county outside of the incorporated areas of the cities of Maryville and Alcoa. The resolution of the county legislative body levying this tax shall state the rates of the tax on new residential and nonresidential development. The county's legislative body shall, by resolution, adopt administrative guidelines, procedures, regulations and forms necessary to properly implement, administer, and enforce the provisions of this act.

SECTION 6. This act shall not apply to the development of:

- (1) Public buildings;
- (2) Places of worship;
- (3) Barns or outbuildings used for agricultural purposes;

(4) Replacement of buildings or structures for previously existing buildings or structures destroyed by fire, or other disaster; or

(5) A building or structure owned by a non-profit corporation which is a qualified 501(c)(3) corporation under the Internal Revenue Code.

SECTION 7. For the exercise of the privilege described in Section 4, the legislative body of Blount County may levy a tax on new development in the county outside the incorporated areas of the cities of Maryville and Alcoa not to exceed:

(1) One dollar (\$1.00) per gross square foot on new residential development; and

(2) Fifty cents (\$0.50) per gross square foot on new nonresidential development.

The county may develop a tax rate schedule by which residential and nonresidential uses are classified by type for the purpose of imposition of the tax authorized by this act.

SECTION 8. The tax established by this act shall be due and collected at the time of application for a certificate of occupancy to the official duly authorized to issue a certificate of occupancy for a building or structure located in the county outside of the incorporated areas of the cities of Maryville and Alcoa.

The tax herein authorized is declared to be a lien against the real property upon which the development has occurred until paid and shall be superior to all other liens on such property except for property tax liens. Interest of one percent (1%) per month, and a penalty of one half percent (1/2%) per month shall be added to the tax due if not paid when first due, unless the taxpayer successfully contests the applicability of such tax by appeal as provided in this act. Notice of such lien may be, but is not required to be, recorded in the office of the register of deeds for Blount County, Tennessee. Such lien may be enforced by action instituted in any court of competent jurisdiction in Blount County for sale of the real property to enforce the lien.

SECTION 9. All tax funds collected shall be used to provide capital projects and to reduce debt incurred therefor and shall be deposited into the county's general and debt service funds for such purposes.

SECTION 10. The authority to levy this privilege tax on new development in Blount County outside the incorporated areas of the cities of Maryville and Alcoa is in addition to all other authority to impose taxes, fees, assessments, or other revenue raising or land

development regulatory measures granted either by the public or private acts of the state, and the levy of such tax, in addition to any other authorized tax, fee, assessment, or charge, shall not be deemed to constitute double taxation.

SECTION 11.

(a) Any person aggrieved by the decision of a official duly authorized to issue a certificate of occupancy for a building or structure located in the county outside the incorporated areas of the cities of Maryville and Alcoa or of any other responsible official concerning any aspect of this act may obtain review of the such decision in the following manner:

(1) By payment of the disputed amount of the tax to Blount County and by notifying the official that the payment is made under protest; and

(2) By requesting an appeal of the decision of the official in written form within ten (10) days of the protest and payment.

(b) Appeals shall be heard by the Blount County adequate facilities tax board of appeals (the "board"). A hearing shall be scheduled within forty-five (45) days of the written request for appeal. The board shall rule on all appeals within thirty (30) days of the hearing date, unless the hearing is continued from time to time by a majority vote of the board for further information.

(c) The board shall act as an administrative or quasi-judicial body that determines the intent of this act and its applicability to the appellant taxpayer and rules upon the decision of the official. The board shall not be bound by formal rules of evidence applicable to the various state courts.

(d) Hearings before the board shall proceed as follows:

(1) The official duly authorized to issue the certificate of occupancy or other responsible official shall explain the ruling and the reasons for the ruling.

(2) The appellant taxpayer shall explain such taxpayer's reasons for protesting the official's decision.

(3) The board may request further information from any county or city official, employee, or attorney. The board shall not have the power to subpoena.

(4) The board shall deliberate and render its ruling by a majority vote.

The board's ruling shall be reduced to writing and shall become a part of the board's minutes. Copies of the rulings shall be sent to the respective parties.

Rulings of the board shall be final, except that either the official duly authorized to issue the certificate of occupancy or other responsible official or the appellant taxpayer may seek review of the board's actions by common law writ of certiorari proceeding in any court of competent jurisdiction in Blount County.

SECTION 12. If any provisions of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 13. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Blount County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body and certified by him to the Secretary of State.

SECTION 14. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes it shall become effective upon being approved as provided in Section 13.